IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA:

1.RFA.No.128 of 1997.
2.RFA.No.129 of 1997.
3.RFA.No.228 of 1997.
4.RFA.No.318 of 1997.

Date of Decision :20th December, 2007.

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1. RFA.No.128 of 1997.
Punjab State Electricity Board. …Appellant.

Vs.

State of H.P & others. …Respondent.

For the appellant(s): Mr.Anand Sharma, Advocate.
For Respondents No.1& 2. Mr. Ashutosh Burathoki, Addl.A.G.

2.. RFA.N0.129/97.
Punjab State Electricity Board. …Appellant.

Vs.

State of H.P.& others. …Respondent.

For the appellant(s): Mr.Anand Sharma, Advocate.
For Respondents No.1& 2. Mr. Ashutosh Burathoki, Addl.A.G.

3.. RFA.No.228/1997.
Punjab State Electricity Board. …Appellant.

Vs.

State of H.P.& others. …Respondent.

For the appellant(s): Mr.Anand Sharma, Advocate.
For Respondents No.1& 2. Mr. Ashutosh Burathoki, Addl.A.G.

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4. RFA.No.318/1997.
Punjab State Electricity Board. …Appellant.

Vs.

State of H.P and others. …Respondent.

Coram:
The Hon'ble Mr.Justice Sanjay Karol, Judge.

Whether approved for judgment?[1]

For the appellant(s): Mr.Anand Sharma, Advocate.
Respondents No.1& 2. Mr. Ashutosh Burathoki, Addl.A.G.

For Respondents No.3 & 4(a) to 4(k). Mr.Dinesh Kumar and
Mr.Y.Paul, Advocates.

Sanjay Karol, J(Oral).

The present appeals arise out of the award dated 15th June, 1996 passed by the District Judge, Bilaspur, H.P. in Land Reference Case No. 2 of 1991 and other connected cases.

In the present appeals, common award dated 15th June, 1996 has been assailed, therefore, all the appeals are being decided by a common judgment.

For the public purpose, namely, the construction of Anandpur Sahib Hydel Channel, 169-13 bighas of land including the land of the present respondents was acquired by the appellants vide Notification dated 18th July, 1980 issued under Section 4 of the Land Acquisition Act (hereinafter referred to as the Act),. The acquisition proceedings stood concluded in terms of the award dated 20th December, 1984 and a sum of Rs.1604,13 paisa was awarded as compensation in favour of Rajinder Singh-respondent No.3 (RFA.No.128/97), Rs.14,688/-, to Kishan Singh-respondent No.3 (RFA No.228/97), Rs.12,808.45 to Shri Raghubir Singh-respondent No.3 (RFA.No.129/97) and Rs.2,73,179.71 paisa to Tulsi Ram-respondent No.3 (RFA.No.318/97).

Being dis-satisfied with the award passed by the Collector, the claimants filed Reference Petitions under Section 18 of the Act seeking enhancement of the compensation awarded for the acquisition of their land.

The claim petitions were clubbed together and in order to prove its case the respondents proved on record two sale deeds being Ext.PW-1/A dated 1st January, 1974 whereby 1-6 bighas of land was sold for a sum of Rs.8,000/- and Ext.PW-1/B dated 15th January, 1975

whereby 7 biswas of land was sold for a sum of Rs.5,000/-. The respondents also produced other evidence which was not considered by the court below. Considering the two sale deeds, it can be concluded that the respondents' acquired land could have easily fetched a market price of Rs.5,500/-.per bigha. There is no dispute that the acquired land and the land under the sale deed are of similar nature, same area and have same potentiality. However, since the Collector had awarded a sum of Rs.6,189/- per bigha for the land of category "Chahi Awal", the Court below uniformally applied the rate of Rs.5,500/- per bigha regardless of the category of the land acquired for the public purpose mentioned herein-above.

In my view there is no infirmity in the impugned award with regard to the uniform application of the market price with regard to all categories of land as the land was acquired for the purpose of construction of Anandpur Sahib Hydel Channel. The entire land has been utilized for the said purpose. Therefore, in my view, no deductions are required to be made at all. The market value arrived at by the Court below while determining the compensation due and payable to the land owners for the acquisition of the land, in my view, is just, fair and reasonable. The same is based on the material on record.

The court below also awarded interest at the rate of 12% on the market value assessed from 1st January, 1975 to July, 1980. In my view, there is serious infirmity in the same being so awarded. The acquisition proceedings were initiated by issuance of notification under Section 4 of the Act only on July 18, 1980. Therefore, interest could not have been awarded prior to the said date even if the possession of

land had been taken by the appellants for fulfilling the public purpose. The award accordingly needs to be modified to this extent.

The land owners shall be entitled to all statutory benefits in accordance with law under Sections 23(1A), 23(2), 28 and 34 of the Act. The respondents shall be entitled to interest at the rate of 9% for a period of one year from the date of publication of the notification and at the rate of 15% thereafter up to the date of payments. The respondents shall also be entitled to all statutory benefits as envisaged under Section 34 of the Act. The award is modified to the extent indicated above. The appeals are partly allowed and disposed of accordingly.

(Sanjay Karol),
Judge.

December 20, 2007(R)